UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION DOCKET NO. 3:02-cr-00161-MOC

UNITED STATES OF AMERICA,)	
)	
)	
)	
Vs.)	ORDER
)	
CONSUEGO SHINE,)	
)	
Defendant.)	

THIS MATTER is before the court on defendant's Motion for Reconsideration 18 U.S.C. § 3742(e) Post Sentencing Rehabilitation Programming. Such motion has been submitted in the form of a prison-circulated fill in the blank form and, from a review of decisions of other courts, has been routinely denied. <u>See United States v. Sanders</u>, 2012 WL 3834927 (E.D.N.C. Sept. 4, 2012).

In support of such motion, defendant contends that her post-sentencing conduct - - as evidenced by the courses she has taken in prison and overall good behavior -- should be taken into consideration in imposing a lower sentence, relying on Pepper v. United States, ___U.S.___, 131 S.Ct. 1229 (2011). In Pepper, the Court held that when a defendant's sentence has been set aside *on appeal*, the district court at resentencing may consider evidence of the defendant's post-sentencing rehabilitation, which may support a downward variance from the advisory Sentencing Guidelines. Id. at 131 S.Ct. at 1241–42. Defendant simply does not qualify for any relief under Pepper as her case is not before this court on remand from the Court of Appeals for the Fourth Circuit. Thus, neither Pepper nor defendant's post-sentencing efforts at rehabilitation entitle defendant to be resentenced.

ORDER

IT IS, THEREFORE, ORDERED that defendant's Motion for Reconsideration 18 U.S.C. § 3742(e) Post Sentencing Rehabilitation Programming (#115) is DENIED.

Signed: 3/3/2014

Max O. Cogburn Jr. United States District Judge